

FILED
CLERK, U.S. DISTRICT COURT

4/22/25

CENTRAL DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Wallen Lawson, } 8:18-cv-00705- JVS(JPRx)
vs. }
PPG Industries, Inc. }
} COURT'S RULINGS ON
} DEPOSITION DESIGNATIONS

Page 1

4 Wallen Lawson,

5 Plaintiff,

6 vs. Civil Action No.

7 8:18-cv-00705-AG-JPR

8 PPG Architectural Finishes,

9 Inc.,

10 Defendant.

11 ~~~~~

no change
JVS 4/22.25

17 DEPOSITION OF MICHAEL COOKSEY

18 Anaheim, California

19 Tuesday, March 12, 2019

22 Reported by:

23 NATALIE KHAMIS

24 CSR No. 14260

25 JOB No. 224588

Page 12

1 A. No, to me, a market walk would be my district
2 manager's store visit or market director's store visit.
3 He'd come in with a team, and they would walk and asses
4 areas of the building, and then we would, you know,
5 discuss the findings of the day or things to work on or
6 whatever that would be, but it wouldn't have anything to
7 do with vendor rep or paint department or anything
8 specifically.

9 Q. Okay. Did anyone ever advise you that
10 Clarence Moore had directed his territory managers to
11 intentionally mistint any paint that was being sold in 403
12 the store?

Foundation
Calls for
Speculation
Relevance

13 MR. BINDER: Objection. No foundation.

14 MS. LAVI: And I'll join in that and calls for
15 speculation.

16 BY MR. FOX:

17 Q. Did you ever hear of that? Were you ever aware
18 of that?

19 A. I'm not sure who Clarence Moore is, so I don't
20 know what it is you're referring to. I don't think so.

21 Q. Okay. Let me ask you this: Are you aware of
22 any instances where paint sold in your store -- in the
23 Huntington store was intentionally mistinted by anyone?

24 A. No.

25 Q. Would that have been inappropriate?

Foundation
Relevance
403

Foundation
Relevance
403
Opinion

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 - - -

4 WALLEN LAWSON,)
5 Plaintiff,)
6 vs.) Case No.
7 PPG ARCHITECTURAL) 8:18-cv-00705-AG-JPR
8 FINISHES, INC.,)
9 Defendant.) *— = reinstated*
10 - - - *featuring JVS 4.22.25*

11 Videotape Deposition of DAVID DUFFY

12 Thursday, February 21, 2019

13 - - -

14 The videotape deposition of DAVID DUFFY,
15 called as a witness by the Plaintiff, pursuant to
16 notice and the Federal Rules of Civil Procedure
pertaining to the taking of depositions, taken
17 before me, the undersigned, Nina Warren Biehler, a
Notary Public in and for the Commonwealth of
18 Pennsylvania, at the law offices of Obermayer
Rebmann Maxwell & Hippel LLP, Suite 5240, One
Mellon Center, 500 Grant Street, Pittsburgh,
Pennsylvania 15219, commencing at 10:10
19 o'clock a.m., the day and date above set forth.

20

21

22 - - -

23 NETWORK DEPOSITION SERVICES
1101 GULF TOWER
707 GRANT STREET
24 PITTSBURGH, PENNSYLVANIA 15219
(866) 565-1929
25 - - -

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

29

1 assumes facts.

2 But you can answer.

3 THE WITNESS: That was the
4 speculation that I gathered from Mr. Dalton
5 when he brought the information back.

6 BY MR. FOX:

7 Q Okay. Did you report results of your
8 investigation to Lowe's?

9 A I am not aware if we did or not.

10 Q You didn't do it -- you didn't report
11 to Lowe's personally?

12 A No, sir.

13 Q And you're not aware that anyone else
14 did --

15 A Correct.

16 Q -- right?

17 Why was Lowe's not informed of this
18 inventory fraud?

19 MR. SCHROEDER: Objection,
20 assumes facts, calls for speculation.

21 BY MR. FOX:

22 Q So you don't know?

23 A I do not know.

24 Q Did you raise the question with anyone
25 at PPG, hey, maybe we should let -- let our

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 been -- had been fired?

2 A I believe it was a conversation with
3 counsel, Bill Adams.

4 Q When -- do you recall when that
5 conversation occurred?

6 A I do not.

7 Q Would it have been shortly after Wally
8 was fired?

9 A I have a funny feeling it was more
10 along the lines of when these interviews -- these
11 depositions were set up.

12 Q Okay. Do you think it's ironic that
13 the whistle blower who reported the misconduct of
14 Clarence Moore was terminated by Clarence Moore
15 and that --

16 MR. SCHROEDER: Object -- sorry,
17 finish your question.

18 BY MR. FOX:

19 Q -- Clarence Moore is still working at
20 the company?

21 MR. SCHROEDER: Objection, calls
22 for an opinion. Assumes facts.

23 You can answer.

24 THE WITNESS: In my opinion, yes.
25

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 BY MR. FOX:

2 Q Did you ever -- when you spoke with
3 Wally Lawson -- let me ask you this, what was
4 your -- did it seem like he was an honest guy,
5 when you spoke with him?

6 MR. SCHROEDER: Objection,
7 foundation.

8 You can answer.

9 THE WITNESS: The person I spoke
10 to on the phone during that time frame, yes,
11 I found him to be very honest, very credible.

12 BY MR. FOX:

13 Q Did people that conducted -- were
14 involved in the investigation think that Clarence
15 Moore was honest and credible?

16 MR. SCHROEDER: Objection.

17 THE WITNESS: I do not know the
18 answer to that.

19 BY MR. FOX:

20 Q Did anyone conducting the
21 investigation ever express to you any negative
22 views about Clarence Moore?

23 A No, sir, not that I recall.

24 Q Did they ever suggest to you that he
25 had a tendency to break the rules?

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

36

Relevance
403

1 A No, sir, not that I'm aware of.
2 Q Did they ever discuss with you that
3 his -- in his signature line for his e-mails he
4 expressed a disrespect for -- for playing by the
5 rules?

6 MR. SCHROEDER: Objection to
7 the -- you can answer to the extent you're
8 not disclosing attorney/client
9 communications.

10 THE WITNESS: Other than being
11 aware of that tag line on his e-mails, that's
12 all.

13 BY MR. FOX:

14 Q Okay. What was the tag line that you
15 were aware of?

16 A I just -- something about compliance
17 not being as important as other things.

18 Q Okay. And how did you become aware of
19 that?

20 A Through an e-mail discovery process.

21 Q Okay, so that was something you
22 became aware of after -- after the litigation was
23 filed -- oh, no, I'm sorry, when you say e-mail
24 discovery process, you mean discovery during the
25 course of the investigation, right?

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 A That is correct.

2 Q Okay. Did someone bring that e-mail
3 to your attention?

4 A I -- I found it.

5 Q Returning to the conversation with
6 Wally Lawson, did he discuss whether or not
7 mistinting was happening in other regions of the
8 country, other than his region?

9 A I believe Mr. Lawson indicated that it
10 was happening in specific states that were --
11 would have been in addition to his area, that's
12 correct.

13 Q Okay. Did he indicate those states?

14 A If I'm not mistaken, it was Texas.

15 Q Okay. Did he identify any persons who
16 were knowledgeable about the mistinting that might
17 be occurring in Texas?

18 A I don't recall a specific name, no.

19 Q Did he tell you that many of the
20 territory managers were bragging about mistinting
21 the paint?

22 A Yes, sir.

23 Q Did that concern you?

24 A Yes, sir.

25 Q After you had the call with Wally

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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Relevance
403

1 A That's correct.

2 Q Did you factor that into your analysis
3 in determining the potential amount of the fraud?

4 A No, sir.

5 Q Why not? Why didn't you do that?

6 A That wasn't my decision.

7 Q Whose decision was it?

8 A Counsel's.

9 Q So, in fact, it could have been a lot
10 more than 300 products that were mistinted,
11 correct?

12 MR. SCHROEDER: Objection, calls
13 for speculation.

14 THE WITNESS: Correct.

15 BY MR. FOX:

16 Q Now, in the Phoenix region the company
17 had 16 territory managers, correct?

18 A I don't remember the exact number.

19 Q Does that sound right to you?

20 A It would be close, yes.

21 Q And approximately 140 Lowe's stores,
22 locations; does that sound right?

23 A Sounds right.

24 Q Do you know how long the practice of
25 mistinting continued?

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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Relevance
Foundation

1 A Yes, sir.

2 Q Okay, I'd like to show you Exhibit 13.

3 Do you recall seeing this e-mail?

4 A I don't recall off the top of my head,
5 no.

6 Q Were you aware that the territory
7 manager in the Houston region had reported the --
8 as reflected in the e-mail, the statement, "He
9 told me that I can give the store credit for X
10 amount of gallons and then turn around and mistint
11 them or leave them on the shelf.

12 "I told him it sounded shady and I
13 wasn't going to do that.

14 "He then tells me it's fine to do that
15 as long as you don't do it all the time, because
16 Matt Thoman sees those RA reports and too much or
17 too many times can cause a red flag.

18 "Sorry, but that sounds a little
19 unethical to me."

20 So were you aware that a territory
21 manager had voiced this?

22 A No, I'm not aware of it.

23 Q And were you aware of Brian Wells'
24 response, as reflected in the e-mail?

25 A No, sir.

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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Relevance
Foundation

1 Q Would that have concerned you?

2 A Yes, sir.

3 Q Why is that?

4 A I think it's clearly stated that it

5 sounds unethical.

6 Q Do you know what follow-up was done

7 with Mr. Wells --

8 A I do not.

9 Q -- on this?

10 Okay, I'd like to show you Exhibit 14.

11 Okay, do you recall seeing this e-mail

12 exchange?

13 A Yes.

14 Q Okay, and this is an e-mail exchange

15 that contains the concerns noted by the Houston

16 territory manager, and reveals that it was Coree

17 Bell, correct?

18 A Correct.

19 Q And you -- you had -- in this exchange

20 you had indicated to Ian, in your -- in the middle

21 of the page, your response, "Ian, thanks for the

22 update.

23 "I'm on a c-call for the next 45

24 minutes. I will track you down after that call.

25 "Thanks for providing this.

Deer Talk

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 And if you had a conversation
2 that was not with counsel you can discuss it;
3 otherwise, you shouldn't answer the question.

4 THE WITNESS: It was all with
5 counsel.

6 BY MR. FOX:

7 Q Okay. Was there anything more that
8 you would have liked to have done had -- had you
9 had the opportunity to do so, to determine the
10 extent of mistinting in the field, beyond
11 conducting this SurveyMonkey?

12 A I don't have any -- that's up to the
13 operations team.

14 Q Okay. Would it not have been possible
15 to conduct some sort of audit or review, on a
16 random basis, at the store level, to more
17 thoroughly evaluate the extent of any mistinting
18 going on?

19 A Could have been possible, yes.

20 Q Do you know why that option was not
21 pursued?

22 A I do not.

23 Excuse me, I'm sorry.

24 Q So can we just go through the data
25 indicated on the first page?

Relevance
Calls for
Speculation

Relevant
X6

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 MR. SCHROEDER: Objection, calls
2 for speculation.

3 THE WITNESS: I'm not aware of
4 it.

5 BY MR. FOX:

6 Q Okay. Then the next item is,
7 "Incorporate the policy into the on-boarding
8 process as well during training meetings to
9 reinforce the proper handling of PPG products."

10 What did you mean by that?

11 A That any new hire that would come on
12 board would be given this documentation to
13 understand what the rules and regulations were
14 operating within these businesses.

15 Q Okay. That all incoming employees
16 would be instructed, thou shalt not mistint --

17 A Yes, sir.

18 Q -- if you will?

19 A Yes, sir.

20 Q Okay. Do you know if that suggestion
21 you made was incorporated?

22 A I do not know.

23 Q The next item is, "Review with the
24 RSM, slash, DSM team the proper handling of PPG
25 product and to exercise care when providing

Relevance
407
(Subsequent
Remedial
Measures)

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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Relevance
407
(Subsequent
Remedial
Measures)

1 direction to the TM population during market
2 walks, slash, conference calls to always execute
3 via the documented practice."

4 What did you mean by that proposal?

5 A It was to make sure that in the -- in
6 lines with communications, that people didn't
7 misinterpret, misunderstand any communications
8 that would have happened. If it was not
9 documented on how to do something they should not
10 have done it.

11 Q Okay, was that proposal carried out?

12 A I'm not aware of it.

13 Q Was -- and you conclude by saying,
14 "Based on availability, I will attempt to schedule
15 a conference call to discuss any questions you may
16 have and review the suggested next steps."

17 Was such a conference call conducted?

18 A Correct.

19 Q And who participated?

20 A If I'm not mistaken, it was corporate
21 counsel and Cathie McKinley, Max Wetzel and Dave
22 Cole.

23 Q Okay.

24 A I don't recall if Matt Thoman was
25 involved or not.

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 out of the data.

2 Q Okay, so based upon what came out of
3 the data, what was your estimate as to the amount
4 of gallons of Rescue It product that were
5 mistinted?

6 A I'd have to go back and look on the
7 report.

8 Q Because it looks like, for example,
9 here in -- Participant No. 78, on Page 3/9, says,
10 for that person alone, approximately 150 gallons
11 over the last two years would be a moderate guess.

12 MR. SCHROEDER: What's the Bates
13 number of the page you're looking at?

14 MR. FOX: 780.

15 MR. SCHROEDER: 780?

16 MR. FOX: Yes. It says,
17 Participant 78.

18 BY MR. FOX:

19 Q Do you see that?

20 A Yes, sir.

21 Q So that's just one participant in the
22 survey saying they -- they -- admitting to
23 mistinting 150 gallons, correct?

24 MR. SCHROEDER: Object to the
25 form.

Relevance
Foundation

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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Relevance
Foundation
Calls for
Speculation

1 BY MR. FOX:

2 Q Is that your interpretation?

3 A Correct.

4 Q So does that lead you to believe
5 that -- and then if you go -- now, let's just turn
6 to the next page.

7 If you go to Participant 128, on the
8 next page, they admit to tinting -- mistinting 100
9 gallons.

10 And then if you go to Participant 144,
11 they admit to mistinting approximately 100 to 150
12 gallons.

13 Just with those three participants
14 alone, you've already well exceeded the 300
15 gallons you initially estimated, correct?

16 A Correct.

17 Q So did anyone make any further effort,
18 other than conducting the survey, to determine the
19 amount of paint that was actually mistinted?

20 A Not that I'm aware of.

21 Q Were -- do you know if PPG's outside
22 auditors were ever informed of the mistinting
23 fraud?

24 A I don't know.

25 MR. SCHROEDER: Objection,

Precisely

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

101

1 THE WITNESS: You'd have to talk
2 to the technical team, I'm unaware.

3 BY MR. FOX:

4 Q Okay.

5 It also talks about -- some of these
6 comments also talk about Assure Base 2. Like, for
7 example, on Page 788, the very top of the page,
8 Respondent No. 25 states that, "Things like
9 mistinting products, such as very old Icon or
10 discontinued Assure Base 2."

11 Do you know what that refers to?

12 A No, sir.

13 Q It looks like there are a lot of
14 things that are complained of in here that
15 weren't, necessarily, the subject of your
16 investigation, that related to unethical
17 misconduct in the field, correct?

18 A Correct.

19 Q What did you do to assure yourself
20 that that -- that that different type of unethical
21 misconduct wasn't related or not related to
22 Clarence Moore?

23 MR. SCHROEDER: Objection,
24 assumes facts.

25 You can answer.

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

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1 THE WITNESS: We didn't take any
2 action that I'm aware of. I did not.

3 BY MR. FOX:

4 Q Was Clarence Moore ever forced to
5 revise his byline?

6 A I do not know.

7 Q Was there someone in the company who
8 was protecting Clarence Moore, do you know?

9 A I do not know.

10 Q Do you know if he had a champion or
11 supporter at higher levels of management?

12 A I do not know.

13 Q Was Sean Kacsir a supporter of
14 Clarence Moore, if you know?

15 MR. SCHROEDER: Objection to
16 foundation.

17 THE WITNESS: I do not know.

18 BY MR. FOX:

19 Q Were you aware of any of the stated
20 reasons why Wally Lawson was terminated?

21 A No, sir.

22 Q Were you aware that -- let me ask you,
23 did you ever have any discussions with Andy --
24 Andy Mayhew about Wally Lawson?

25 A No, sir.

NETWORK DEPOSITION SERVICES
Transcript of David Duffy

105

1 BY MR. FOX:

2 Q I just have one further question.
3 Was any action taken by PPG as a
4 result of the investigation that you oversaw?

5 MR. SCHROEDER: Objection,
6 foundation.

7 THE WITNESS: I'm -- if it --
8 from the Lowe's perspective, I do not know.

9 MR. FOX: Okay, thank you, I have
10 no further questions. Thank you, sir.

11 MR. SCHROEDER: I just have one
12 point of clarification.

13 - - -

14 EXAMINATION

15 BY MR. SCHROEDER:

16 Q If you could look at what's been
17 marked as Exhibit 2, Plaintiff's Exhibit 2.

18 Mr. Duffy, is there anything in
19 Plaintiff's Exhibit 2 that indicated to you, at
20 the time you reviewed it, that this complaint
21 involved Lowe's stores?

22 A No, sir.

23 Q Okay. So if you turn to the third
24 page, and you see -- there's the Messages section
25 there, including a message from you; is that

NETWORK DEPOSITION SERVICES
Transcript of Catherine McKinley

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 WALLEN LAWSON,)
4)
5 Plaintiff,) Case No.
6 vs.) 8:18-cv-00705-AG-JPR
7)
8 PPG ARCHITECTURAL)
9 FINISHES, INC.,)
10 Defendant.)
11

12 -----
13 THE VIDEOTAPE OF CATHERINE McKINLEY
14 WEDNESDAY, MAY 15, 2019
15 -----

16 The videotape deposition of CATHERINE
17 McKINLEY, called by the Plaintiff for examination
18 pursuant to the Federal Rules of Civil Procedure,
19 taken before me, the undersigned, Aimee N. Szinte,
20 Notary Public within and for the State of Ohio,
21 taken at Cleveland Metropolitan Bar Association,
22 1375 East Ninth Street, Second Floor, Cleveland,
23 Ohio, commencing at 10:30 a.m., the day and date
24 above set forth.

25 JVS 4.22.25

26 ~~~~~ *reality*
27 ~~testimony~~

NETWORK DEPOSITION SERVICES
Transcript of Catherine McKinley

18

Argumentative
Relevance

1 Q Okay. Well, you said you were not part of the
2 investigation process, but you were the head of
3 the group, the 6 or 700 persons within the
4 organization of which he was a member, correct?

5 A Yes.

6 Q Did you not think it was appropriate for
7 someone in the organization to confront
8 Clarence Moore, tell him directly, "Mr. Moore,
9 you shouldn't be doing this. You shouldn't be
10 mistinting the paint and concealing it from the
11 Lowe's associates."

12 A That was not my direct responsibility.

13 Q Did anyone undertake that responsibility?

14 MR. SCHROEDER: Objection.

15 Foundation. You can answer.

16 A I don't recall.

17 Q You don't recall. Okay.

18 Just redirecting your attention to
19 Plaintiff's Exhibit 3, I want to direct your
20 attention to the language beginning in the
21 second half of the first page. "Moore was
22 instructed at that time to inform his team that
23 practice was to cease immediately."

24 Were you involved in instructing Moore to
25 cease the mistinting practice?

Foudation
Assumes Facts
Relevance

Plaintiff

NETWORK DEPOSITION SERVICES
Transcript of Catherine McKinley

30

1 responsible as the account director for those
2 two businesses.

3 Q Okay. Did you make any effort to determine
4 whether or not the mistinting practice was
5 going on at any of those other retailers?

6 A I did not.

7 Q Did anyone?

8 A I don't know.

9 Q So, for all you know, there could have been
10 similar mistinting going on in a surreptitious
11 fashion at the Home Depot, Walmart and the
12 Menards stores?

13 MR. SCHROEDER: Objection. Calls
14 for speculation. You can answer.

15 A There could have been.

16 Q Let me ask you this. Who was your counterpart
17 at Lowe's? Who would you regularly speak with
18 at Lowe's regarding PPG's relationship with
19 Lowe's?

20 MR. SCHROEDER: Objection.

21 Assumes facts. You can answer.

22 Q Well, let me ask you. Did you speak with
23 anyone regularly at Lowe's?

24 A I never spoke to anyone at Lowe's.

25 Q Okay. Did you have a liaison role with them?

Relevance
Calls for Speculation

NETWORK DEPOSITION SERVICES
Transcript of Catherine McKinley

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1 higher up in the organization might be exposed?

2 A No.

3 Q Were you aware that after the ethics complaint
4 was made, that Clarence Moore was permitted to
5 retain supervision over Wally Lawson?

6 A No.

7 Q And were you aware that Clarence Moore was
8 permitted to put Wally Lawson on a
9 Performance Improvement Plan?

10 A No.

11 Q Were you aware that Clarence Moore was
12 permitted to engage in market walks with
13 Wally Lawson in which he was extremely critical
14 of Wally Lawson?

15 A No.

16 Q Were you aware that Clarence Moore recommended
17 that Wally Lawson be fired?

18 A No.

19 Q Were you aware that as a result of Clarence
20 Moore's conduct, Wally Lawson was fired?

21 MR. SCHROEDER: Objection.

22 Vague. You can answer.

23 A No.

24 Q And are you aware that Clarence Moore is still
25 with the organization?

NETWORK DEPOSITION SERVICES
Transcript of Catherine McKinley

59

Relevance
Foundation
Lay Opinion

1 A No.
2 Q Do you have an opinion as to whether or not
3 that's fair?

4 MR. SCHROEDER: Objection.

5 Assumes facts and calls for speculation.

6 A No.

7 Q I'm sorry. So you have no opinion on that?

8 MR. SCHROEDER: You can answer.

9 A No.

10 Q Was there any further conversation you had
11 with Clarence Moore after you issued him the
12 letter dated February 22, 2018?

13 A No.

14 Q Did you ever review the ethics complaint?

15 A I saw something yesterday, but I don't know if
16 it was the ethics complaint.

17 Q Prior to yesterday?

18 A No.

19 Q Did you ever have any conversation with
20 Andy Mayhew about Wally Lawson?

21 A No.

22 Q Did you ever have any discussion with
23 Andy Mayhew about Clarence Moore?

24 A I don't think so. I don't recall, but I don't
25 think so.

Page 1

1 IN THE UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA

3

4

5 WALLEN LAWSON,

6 Plaintiff,

7

8 vs. Case No. 8:18-cv-00705-AG-JPR

9

10 PPG ARCHITECTURAL FINISHES, INC.,

11 Defendant.

JVS 4.22.25

— reconstated testimony

12

13 VIDEOTAPED DEPOSITION

14

OF

15

SEAN KACSIR,

16

17

18

19

20 taken on behalf of the Plaintiff, pursuant to Notice
21 to Take Deposition, beginning at 9:10 a.m. on the
22 28th day of March, 2019, at 1501 Westport Road,
23 Suite 100, in the City of Kansas City, County of
24 Jackson, and State of Missouri, before Ksenija M.
25 Zeltkalns, RPR, Kansas CCR No. 1461.

1 team can't do that but we can help make a label.

2 Most of the times the sales associates may not have
3 known how to make a label.

4 Q. Okay.

5 A. So we had access to labels.

6 Q. Okay. Let me ask you this. Different
7 question.

8 A. Um-hm.

9 Q. Clarence Moore has a tag line to his
10 e-mail reading: Being committed is so much more
11 rewarding than being compliant.

12 Do you see that?

13 A. I do.

14 Q. Were you aware of that?

15 A. I saw it. I never really read it.

16 Q. Well, it was in all his e-mails to you and
17 everyone else, was it not?

18 A. Yeah. It was just garbage on the bottom
19 of his e-mail. I mean, I never read his e-mails on
20 that part of it, I mean.

21 Q. Well, it's right there in plain view in
22 quotation marks right before his signature line, is
23 it not?

24 A. Yes.

25 Q. So you're telling me you never noticed it

Relevance
403
Argumentative

1 before?

2 A. I never really read it, no. All of my
3 regionals have some weird tag line on the bottom of
4 their e-mail.

5 Q. Would this tag line, though, in particular
6 not give you some pause, some concern?

7 A. I mean, I never really looked at it or
8 cared about it.

9 Q. Well, he seems to be poo-pooing the idea
10 of being compliant rather brazenly, does he not?

11 MS. COGBILL: Objection. Misstates and
12 argumentative.

13 A. I believe that if you asked several people
14 their opinion on this e-mail they would come up
15 with different answers.

16 BY MR. FOX:

17 Q. Well, how do you interpret it? What do
18 you think it means?

19 A. I just, in my opinion he wants his team to
20 be committed to what they're doing.

21 Q. And he's suggesting that it's much more
22 important to be committed than to be compliant?

23 A. I read it as doing both.

24 Q. Is that not correct?

25 A. Sorry. I interrupted.

1 MS. COGBILL: It's okay. I was just going
2 to put an objection on the record that it's
3 argumentative, but.

4 BY MR. FOX:

5 Q. Well, I'm just trying to figure out how
6 someone can interpret this in any reasonable
7 fashion other than as it appears to read, that
8 Clarence Moore seems to be saying that being
9 committed is of much greater value than being
10 compliant?

11 MS. COGBILL: Objection. Again,
12 argumentative.

13 BY MR. FOX:

14 Q. Isn't that what it says?

15 A. No. That's your opinion. I read it as
16 he's committed and compliant but that's just my
17 opinion of the statement. It could be looked at
18 from anybody, but.

19 Q. It doesn't say that. It says being
20 committed is so much more rewarding than being
21 compliant. It doesn't say being committed and
22 being compliant are both rewarding, does it?

23 MS. COGBILL: Objection. Argumentative.
24 The document speaks for itself.

25 BY MR. FOX:

Page 121

1 BY MR. FOX:

2 Q. If it happened he'd be subject to
3 termination? That's what I'm asking you.

4 MS. COGBILL: Same objections.

5 A. Hypothetically if it happened there would
6 have to be an investigation.

7 BY MR. FOX:

8 Q. Okay. And there was an investigation was
9 there not?

10 A. I don't know. I mean there's -- we had --
11 I don't know. I wasn't privy to that information.

12 Q. Okay. And if as a result of that
13 investigation all of his direct reports all said,
14 to a man or woman, yeah, he told us to mistint the
15 paint and he told us to do it over a three-month
16 period, and assuming those people were being
17 truthful, would that not likely result in Clarence
18 Moore's termination?

19 MS. COGBILL: Objection. Assumes facts.
20 Calls for speculation.

21 A. I don't know. I've never had a situation
22 where it happened before, so again, I would --
23 hypothetically if it happened, I assume that the
24 people that made the investigation would
25 communicate to me what to do in that situation.

Incomplete (No
Answer)
Assumes Facts

Page 122

1 BY MR. FOX:

2 Q. Do you know why they didn't -- why no
3 action was taken against --

Assumes Facts
Incomplete (No
Answer)

4 THE REPORTER: I didn't -- repeat.

5 BY MR. FOX:

6 Q. Do you know why no action was taken
7 against Clarence Moore --

8 MS. COGBILL: Objection.

9 BY MR. FOX:

10 Q. -- from engaging in this activity?

11 MS. COGBILL: Sorry. Objection. Assumes
12 facts.

13 A. I wasn't a part of the investigation.

14 BY MR. FOX:

15 Q. And do you think it's true also that if it Assumes Facts
16 were determined that you had knowledge as Clarence Foundation
17 Moore's supervisor that he was directing his
18 territory managers to mistint the paint
19 intentionally, and secretively, that you could also
20 be subject to termination by PPG?

21 MS. COGBILL: Objection. Misstates facts.

22 A. It didn't happen, so I mean.

23 BY MR. FOX:

24 Q. Would you understand that would be the
25 consequence though, if such a thing had happened?

Assumes Facts
Foundation

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1 A. I never thought about it until you brought
2 it up. I wouldn't do that so I mean, you're asking
3 me a question on something I don't know how to
4 answer. I don't know, I --I guess I don't know
5 what your question is. You're saying that if I
6 knew about it and secretly did that.

Assumes Facts
Foundation

7 Q. If you were aware that Clarence Moore was
8 doing it and didn't do anything to stop it, do you
9 think you'd be subject to being fired by the
10 company?

11 A. I don't know. That's not my decision.

12 Q. And it's your testimony today that you had
13 no knowledge of intentional mistinting at the
14 direction of Clarence Moore?

15 A. Correct.

16 Q. All right. I just want to know you, ask
17 you if you've seen it before, Exhibit 48. I take
18 it you've never seen this document before?

19 A. This document, correct.

20 Q. Okay. Did you ever see any documents that
21 you thought constituted Wally Lawson's training
22 roster?

23 A. I don't know if I actually saw -- I don't
24 know if I ever looked at Wally's training roster,
25 but I did get training rosters in on a monthly

1 Q. Okay. I'd like to show you Exhibit 35.

2 Were you advised of Wally's termination interview,
3 if you want to call it that, or termination
4 session. Let's call it that.

5 A. I knew that it was taking place.

6 Q. Did you hear about what transpired there?

7 A. I did not.

8 Q. Did Clarence call you after the interview
9 or after the firing?

10 A. I don't recall.

11 Q. Do you know if during the course of the
12 firing session Wally said to Clarence: If anyone
13 should be fired, it should be you, Clarence,
14 because you stole from Lowe's, our valued customer.

15 Did Clarence tell you that Wally had said
16 that in his firing session?

17 A. No.

18 MS. COGBILL: Objection. Assumes facts.

19 A. No.

20 BY MR. FOX:

21 Q. Now, are you aware that Clarence when
22 confronted with the mistinting allegations by Ian
23 Dalton, that he lied about it? He said he never
24 told anyone to mistint?

Assumes Facts
Foundation

25 MS. COGBILL: Objection. Assumes facts.

1 A. I wasn't part of that conversation.

2 BY MR. FOX:

3 Q. Were you aware that Wally had been told
4 that -- in his -- in his firing session that -- by
5 Clarence that it doesn't matter what -- what he --
6 what he had to say, that he was going to be fired
7 anyways?

8 MS. COGBILL: Objection. Assumes facts.

9 A. I wasn't a part of that conversation at
10 all, so I'm going to answer no to any question
11 related to this.

12 BY MR. FOX:

13 Q. Did Andy Mayhew not call you up after the
14 session and talk to you at all about what Wally had
15 said?

16 A. I don't believe so.

17 Q. You don't recall if he called you and
18 said -- asked you about why Wally would have said
19 to Clarence: You should be fired. It should be
20 you because you stole from Lowe's, our valued
21 customer?

22 MS. COGBILL: Objection. Assumes facts.

23 A. I don't -- I don't believe so. No. At
24 least I don't remember, so.

25 BY MR. FOX:

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1 Q. Do you think it's ironic that Clarence
2 Moore is still at the company, still at PPG,
3 employed, when Wally, who blew the whistle, was
4 fired?

Argumentative
Lay Opinion

5 MS. COGBILL: Objection. Assumes facts.

6 Argumentative.

7 A. I don't have an opinion. I'm not his
8 supervisor and I didn't hire him, so I don't know.

9 BY MR. FOX:

10 Q. Can I ask you about Exhibit 46, just had a
11 question about this document. It's a document
12 dated October 23rd, 2018. This is an e-mail that
13 you forwarded to Andy Mayhew on October 23rd, 2018.
14 This was sent after Wally's termination, correct?

15 A. I'm not sure exactly what day he was
16 terminated. September 6th, so according to this
17 document, yes.

18 Q. Okay. Why did you send this? Do you
19 know?

20 A. Because Andy asked me for it.

21 Q. Do you know why?

22 A. No.

23 Q. Just ask you to identify Exhibit 36. It
24 appears to be a Non-Exempt Position Description for
25 the Lowe's territory managers. Is that -- is that

Page 24

1 MR. BINDER: Objection. No foundation.

2 Calls for speculation.

3 MR. FOX: I'm asking yes or no. I don't
4 know how it calls for speculation, Counselor --

5 MR. BINDER: Vague as to time.

6 MS. LAVI: Join.

7 BY MR. FOX:

8 Q. At any time --

9 SPEAKER3: And I join in those objections.

10 BY MR. FOX:

11 Q. At any time. Let's --

12 MS. LAVI: Please let me make objections as
13 well.

14 MR. FOX: Okay. You should object as to
15 form that's it.

16 Q. Now, can you answer the question?

17 A. The -- the answer is no.

18 Q. Okay. Were you aware that Clarence Moore
19 had asked his territory managers to mis-tint the
20 Rescue It product? Did you ever hear of that
21 happening?

Incomplete
Foundation
Calls for
Speculation
403

22 MR. BINDER: Objection. No foundation.

23 Calls for speculation.

24 MR. FOX: The answer is whether he knew of
25 it.

Page 25

1 MS. LAVI: Lacks personal knowledge and I
2 join in the objections as well. Thank you. And
3 assumes facts not in evidence.

4 BY MR. FOX:

5 Q. Okay.

6 A. No.

7 Q. Okay. Did you ever hear of anything like
8 that happening with any vendor representatives?

9 SPEAKER2: Objection. Vague and ambiguous
10 as to "like that." No foundation. Calls for
11 speculation.

12 MS. LAVI: And it assumes facts not in
13 evidence, and I join in those objections as well.

14 THE WITNESS: No.

15 BY MR. FOX:

16 Q. Okay. If you had heard that the PPG
17 regional manager was telling his territory managers
18 to mis-tint products that were being sold to Lowe's,
19 what -- what would your reaction have been?

20 MR. BINDER: Objection. Calls for
21 speculation. No foundation. It's an incomplete
22 hypothetical. It's vague and ambiguous. Calls for
23 a narrative.

24 MS. LAVI: And assumes facts not in
25 evidence as well as those objections.

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 - - -

4 WALLEN LAWSON,)
5 Plaintiff,)
6 vs.) Case No.
7 PPG ARCHITECTURAL) 8:18-cv-00705-AG-JPR
8 FINISHES, INC.,)
9 Defendant.)

10 - - -

11 Videotape Deposition of ANDREW MAYHEW

12 Thursday, March 21, 2019

13 - - -

14 The videotape deposition of ANDREW MAYHEW,
15 called as a witness by the Plaintiff, pursuant to
16 notice and the Federal Rules of Civil Procedure
pertaining to the taking of depositions, taken
17 before me, the undersigned, Nina Warren Biehler, a
Notary Public in and for the Commonwealth of
18 Pennsylvania, at the law offices of Obermayer
Rebmann Maxwell & Hippel LLP, Suite 5240, One
Mellon Center, 500 Grant Street, Pittsburgh,
Pennsylvania 15219, commencing at 10:16
19 o'clock a.m., the day and date above set forth.

20

21

22 - - - *NO Challenge*
23 NETWORK DEPOSITION SERVICES
1101 GULF TOWER
707 GRANT STREET
24 PITTSBURGH, PENNSYLVANIA 15219
(866) 565-1929
25 - - -

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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1 you not?

2 A Yes.

3 Q And were you not aware, at the time
4 you signed off on it, that Clarence Moore had
5 directed his subordinates, including Wally Lawson,
6 to commit inventory fraud?

7 A I'm not aware of that. I'm only aware
8 of it based off of what I know from this lawsuit.

9 Q Did no one advise you that Wally
10 Lawson had called the ethics hotline and reported
11 his supervisor's fraudulent activity?

12 A I was not aware of that, no.

13 Q When did you become aware of that?

14 A When this lawsuit was brought forward.

15 Q Okay. Had you known that, had you
16 known that Wally had reported that Clarence Moore
17 had directed him to commit inventory fraud, would
18 you have handled this situation differently?

19 MR. SCHROEDER: Objection, calls
20 for speculation.

21 But you can answer.

22 THE WITNESS: I mean, it would
23 have depended on everything involved, what
24 was told to him, what -- what the severity
25 was. I can't confirm.

Foundation
Calls for
Speculation

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

36

Foundation
Calls for
Speculation

1 BY MR. FOX:

2 Q Do you think you would have allowed
3 Clarence Moore to terminate Wally had you known
4 that?

5 A Again, depending on the severity. I
6 mean, depending on all the cases -- depending on
7 all the facts in the case, I can't confirm what
8 our recommended course of action would have been.

9 Q Is it a violation of the Global Code
10 of Ethics for a manager or supervisor to instruct
11 a subordinate, who's a nonexempt employee, to work
12 hours off the clock without reporting them?

13 A I'm not -- I'm not sure if it's within
14 our Global Code of Ethics, but it's against our
15 time and attendance policy to work hours off the
16 clock.

17 Q Okay. And why is this important?

18 A To ensure that we pay employees for
19 all hours they worked.

20 Q And because it's not fair to the
21 employee to make them work hours -- extra hours
22 without being paid; isn't that right?

23 A Yes.

24 Q I'd like you to take a look at Moore
25 Exhibit 24.

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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Argumentative Assumes Facts

1 Q Okay. So if someone testified under
2 oath that there was, they'd be lying?
3 MR. SCHROEDER: Objection,
4 assumes facts.

5 THE WITNESS: I -- I mean -- I
6 was not aware of a formal policy.

7 BY MR. FOX:

8 Q Okay. If Clarence Moore had said that
9 in his deposition the day before yesterday, he
10 would be lying, correct?

11 MR. SCHROEDER: Objection,
12 assumes facts, calls for speculation.

13 THE WITNESS: I was not present.

14 BY MR. FOX:

15 Q Okay, I'll represent to you that's
16 what he said.

17 A Okay.

18 Q So that would be a false testimony,
19 correct?

20 A Yes.

21 Q Okay. How frequently do regional
22 managers typically do market walks with territory
23 managers?

24 A I don't recall what the quota was, but
25 I know each manager had a set expectation that

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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1 A From what I understand of the market
2 walk, it was, for each task or each topic, you
3 either received all the points or none. It was an
4 all or nothing scaling.

5 Q What -- what is your basis for that
6 belief?

7 A Just in having conversations with the
8 business in how the form was completed.

9 Q Okay, other than -- other than with
10 respect to Wally's performance improvement plan,
11 did you ever have cause to evaluate any other
12 market walk reports during your HR career, up to
13 this point in time?

14 A If other employees were not
15 performing, sure, we reviewed their market walks.

16 Q Do you recall any?

17 A Not specifically.

18 MR. FOX: Okay, I'd like to show
19 you what's been marked as Plaintiff's Exhibit
20 No. 43.

21 By the way, let the record
22 reflect that Andrew Horowitz has replaced
23 Qiwei Chen in attending the deposition.

24 BY MR. FOX:

25 Q Have you seen Exhibit 43 before?

Foundation
Relevance
403
Lay Opinion

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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Foundation
Relevance
403
Lay Opinion

Foundation
Relevance
403
Lay Opinion

1 A I -- I would have been sent this
2 e-mail, yes.
3 Q Okay. Do you recall -- so this an
4 e-mail you received from Clarence Moore, correct?
5 MR. SCHROEDER: Objection.
6 THE WITNESS: From Sean.
7 BY MR. FOX:
8 Q Well, it was forwarded to you from
9 Sean, correct?
10 A I see that it's from Sean.
11 Q Okay. And does it contain an e-mail
12 from Clarence Moore?
13 A Yes. It was from Clarence, to Wally.
14 Q Okay. In the first page, does the
15 e-mail from Clarence Moore contain his tag line?
16 A Yes.
17 Q And can you read to me his tag line?
18 A "Being committed is so much more
19 rewarding than being compliant."
20 Q What did you take his tag line to
21 mean?
22 A I -- I'm not sure.
23 Q Did anyone in the company have an
24 adverse reaction to his tag line?
25 MR. SCHROEDER: Objection,

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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Foundation
Relevance
403
Lay Opinion

1 foundation.

2 THE WITNESS: Not that I'm aware
3 of.

4 BY MR. FOX:

5 Q Did you?

6 A No.

7 Q Well, you were in charge of
8 compliance, that was one of your primary roles in
9 HR; was it not?

10 MR. SCHROEDER: Objection,
11 mischaracterizes his testimony.

12 THE WITNESS: It would have been
13 a function, yes.

14 BY MR. FOX:

15 Q So were you not concerned that
16 Clarence appeared to be pooh-poohing compliance in
17 his tag line?

18 A I mean, employees put tag lines in
19 their e-mails, multiple employees do that.

20 No, I don't think he would -- he meant
21 it in the fact where he was trying to be
22 noncompliant with company policy or procedures.

23 Q Okay. Do you think this, in
24 retrospect, this e-mail tag line that Clarence had
25 adopted was revealing of who he was as a manager?

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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1 MR. SCHROEDER: Objection, calls
2 for speculation.

3 THE WITNESS: No.

4 BY MR. FOX:

5 Q This is a manager who would defraud
6 the company's partner, Lowe's, systematically
7 through inventory fraud; isn't that right?

8 MR. SCHROEDER: Objection,
9 argumentative, assumes facts.

10 THE WITNESS: Again, I don't have
11 all the facts of that investigation, so I'm
12 not -- I mean, I'm not sure if that's what
13 his -- if he was malicious in that with his
14 intent to do that.

15 BY MR. FOX:

16 Q Do you think he was, maybe, reckless
17 in his intent, if he wasn't malicious?

18 MR. SCHROEDER: Objection,
19 assumes facts, foundation, calls for
20 speculation.

21 THE WITNESS: Again, I don't have
22 all the facts of the case. And, again,
23 there's multiple things to be considered for
24 me to make that determination.

Foundation
Relevance
403
Lay Opinion

Foundation
Relevance
403
Lay Opinion

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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Foundation
Relevance
403
Lay Opinion

1 BY MR. FOX:

2 Q Well, look, you're still in -- you're
3 still in HR at the company, correct?

4 A Yes.

5 Q Does it not concern you that Clarence
6 Moore is at the company, gainfully employed, and
7 had conducted an operation that resulted in the
8 defrauding of PPG's former partner Lowe's?

9 MR. SCHROEDER: Objection, it
10 assumes facts, it's argumentative, it's been
11 asked and answered.

12 THE WITNESS: Again, I was not
13 involved in the investigation, so -- I mean,
14 there's multiple things to be considered. I
15 mean, Clarence, yes, is still employed.

16 MR. FOX: Um-hum.

17 THE WITNESS: So, I mean, based
18 off of the documents you showed he was issued
19 a warning, so. He -- yes, he's still an
20 employee.

21 BY MR. FOX:

22 Q Okay. Does that -- does that concern
23 you in any way?

24 A No.

25 Q Do you know if Lowe's was ever

Foundation
Relevance
403
Lay Opinion

NETWORK DEPOSITION SERVICES
Transcript of Andrew Mayhew

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Foundation
Relevance
403
Lay Opinion

1 informed of the inventory fraud that was
2 orchestrated by Clarence Moore?
3 A I'm not sure. I mean, that wasn't one
4 of my roles in HR.
5 Q Would it concern you to hear that
6 Lowe's had never been informed of the inventory
7 fraud?

8 MR. SCHROEDER: Objection,
9 assumes facts.
10 And, just again, for the record,
11 there's a motion for a protective order
12 pending on this issue.

13 I mean, as with Moore's
14 deposition, I'll allow him to answer the
15 question as long as we agree that it's not a
16 waiver of any of the arguments in the motion
17 for a protective order.

18 MR. FOX: I agree it's not a
19 waiver.

20 MR. SCHROEDER: Okay, you can
21 answer if you know.

22 THE WITNESS: Can you repeat the
23 question?

24 MR. FOX: Yeah, can we read it
25 back, please.